

**481—56.14 (135C) Licensee's response to a citation.** Within 20 business days after service of a citation, the facility shall respond in the following manner, according to the type of citation issued.

**56.14(1)** If the facility does not desire to seek an informal conference or contest the citation, the facility shall remit to the department of inspections and appeals the amount specified by the department of inspections and appeals in the citation unless:

*a.* The violation was issued in conjunction with a federal civil money penalty, and the department holds the fine issued pursuant to this chapter in abeyance pursuant to Iowa Code section 249A.19, or

*b.* The class II violation for which the penalty was imposed has been waived pursuant to subrule 56.3(2).

**56.14(2)** For each class II or class III violation, the facility shall send a written response to the department of inspections and appeals, acknowledging that the citation has been received and stating that the violation will be corrected within the specified period of time allowed by the citation.

**56.14(3)** Informal conference. If the facility desires to contest a citation for a class I, class II or class III violation, the facility shall notify the department of inspections and appeals in writing that it desires to contest such citation and request in writing an informal conference with an independent reviewer. The informal conference will be held concurrently with any informal dispute resolution held pursuant to 42 CFR Section 488.331 for those health care facilities certified under Medicare or the medical assistance program.

*a. Definition.* For purposes of this subrule, "independent reviewer" means an attorney licensed in the state of Iowa who is not currently and has not been employed by the department in the past eight years, or has not appeared in front of the department on behalf of a health care facility in the past eight years. Preference shall be given to an attorney with background knowledge, experience or training in long-term care.

*b. Request for informal conference.* The request for an informal conference must be in writing, addressed to the compliance officer and include the following:

- (1) Identification of the citation(s) being disputed;
- (2) The type of informal conference requested: face-to-face or telephone conference; and
- (3) A request for surveyor worksheets for the citation(s) being disputed, if desired.

*c. Submission of documentation.* Within the same ten-day period required for submission of a plan of correction pursuant to 481—subrule 50.10(7), the facility shall submit the following:

(1) The names of those who will be attending the informal conference, including legal counsel; and

(2) Documentation supporting the facility's position. The facility must highlight or use some other means to identify written information pertinent to the disputed deficiency(ies). Supporting documentation that is not submitted within the required time frame will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. "Good cause" means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the facility has shown good cause, the independent reviewer shall consider what circumstances kept the facility from submitting the supporting documentation within the required time frame.

*d. Face-to-face or telephone conference.* A face-to-face or telephone conference, if requested, will be scheduled to occur within ten business days of the receipt of the written request, all supporting documentation, and the plan of correction required by 481—subrule 50.10(7).

(1) Failure to submit supporting documentation will not delay scheduling.

(2) The conference will be scheduled for one hour to allow the facility to informally present information and explanation concerning the contested deficiencies. Due to the confidential nature of the conference, attendance may be limited.

(3) If additional information is requested during the informal conference, the facility will have two business days to deliver the additional materials to the department.

(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the facility may be given one opportunity to reschedule the face-to-face conference.

*e. Results.* The results of the informal conference will generally be sent within ten business days after the date of the informal conference, or within ten business days after the receipt of additional information, if requested.

(1) The independent reviewer may affirm or may modify or dismiss the citation. The independent reviewer shall state in writing the specific reasons for the affirmation, modification or dismissal of the citation.

(2) The department will issue an amended (changes in factual content) or corrected (changes in typographical/data errors) citation if changes result from the informal conference.

(3) The facility must submit to the department a new plan of correction for the amended or corrected citation within ten calendar days from the date of the letter conveying the results of the informal conference.

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